IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.1029 of 2007

Shri Harish Arjun Bhagde — Petitioner
Vs.
Sau. Nasrin Iqbal Memon — Respondent

Mr.M.J.Jamdar for petitioner.
Mrs.Rekha Shukla for respondent.

CORAM: B.H.MARLAPALLE, J.

April 27, 2007.

P.C.

. Heard Mr.Jamdar, the learned counsel for the petitioner - defendant in Civil Suit No.265 of 2003 filed by the landlord for eviction. In the said suit an application at Exhibit 38 was filed and the same has been disposed by the impugned order. As per Mr.Jamdar by the said application the defendant had prayed for recasting of the issues and the said prayer has been allowed to some extent by the trial Court by recasting the second issue as under :

> "Whether defendant proves that he has paid all the arrears of rent as per the provisions of the Maharashtra Rent Control Along along with the interest and cost of the suit in compliance of the provisions of Maharashtra

Rent Control Act."

The original issue framed was :

"Whether the defendant is in arrears of rent."

. No fault could be found with the impugned order, more so when the defendant claims that he has paid all the arrears of rent as required in law, the burden to prove the same lies on him and, therefore, rather than deleting the issue it has been re-cast.

The petition is, therefore, rejected.

(B.H.MARL